

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CIVIL DIVISION

Don Shipley,

Plaintiff,

Case No.: 12-CA-004308

v.

Division: H

Barry "Bear" Silverman,
William Newel Brockbrader and
Wolf Spirit Radio,

Defendants.

COMPLAINT

The Plaintiff, Don Shipley, by and through his undersigned attorney, hereby sues the Defendants, Barry "Bear" Silverman, William Newel Brockbrader and Wolf Spirit Radio, and states:

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00).
2. Plaintiff, Don Shipley, is a retired decorated Navy Seal who owns and operates the business Extreme Seal Experience, principally located in Chesapeake, Virginia, and with adjunct offices in Hillsborough County, Florida.
3. Defendant, Barry "Bear" Silverman, is a self-styled weapons instructor who operates the business, Tactical Deterrence, located in Broward County, Florida.
4. Defendant, William Newel Brockbrader, is an internet blogger and self-acclaimed former Navy Seal whose publications are disseminated worldwide on the internet, accessed by internet viewers in the state of Florida, and published with permission on the internet website, wolfspiritradio.com.

5. Defendant, William Newel Brockbrader, has published false claims he was a Navy Seal and a member of Seal Team Nine, a Seal Team that does not exist, and a claim that appears to be patently false.

6. Defendant, William Newel Brockbrader's false claims of being a Navy Seal, and his dishonest conduct in promoting himself as having engaging in Seal Operations in northern Iraq and other locations throughout the world, has tarnished and harmed the reputation of all Navy Seals, including those who are retired or recently discharged from active duty service.

7. Defendant William Newel Brockbrader's disreputable conduct in holding himself out as having completed Seal training, has diminished the competitive and economic advantage of those Navy Seals seeking to re-enter the civilian employment sector after being discharged from active duty service.

8. Defendant, Wolf Spirit Radio, operates an internet website and on line forum which is the copyright of Wolf Spirit Radio – © wolfspiritradio.com 2011, 2012.

9. Defendant, Wolf Spirit Radio's home webpage contains the disclaimer that all material on the website is owned or licensed by Wolf Spirit Radio, any reproduction is prohibited, and any unauthorized use or publication of website material is prohibited giving rise to a claim for damages.

10. Defendant, Wolf Spirit Radio, is responsible for the content of its website, but expressly disavows responsibility for the content of links to other websites it may periodically publish for the convenience of its website browser audience.

11. Defendant, Wolf Spirit Radio, maintains and publishes a regular blog written by William Newel Brockbrader under the name Bill Brockbrader, and which includes an online

article entitled "More Truth Revealed."

12. The article, "More Truth Revealed," written by Bill Brockbrader and published on the world wide web with permission of Wolf Spirit Radio, contains defamatory statements about Don Shipley and his business, Extreme Seal Experience, and was accessed by Don Shipley and internet viewers in the state of Florida.

13. United States Navy Sea, Air, and Land Teams, commonly known as Navy Seals, are an elite cadre of Navy special operations warfighters who, prior to being designated Navy Seals, must first complete a required twenty-four week initial training course known as Basic Underwater Demolition/SEAL training, or BUD/S.

14. BUD/S is a physically and mentally challenging training course with an average completion rate of only one in four, and course attrition rates as high as ninety percent for some classes.

15. Candidates for BUD/S training must first pass a rigorous physical screening test in which they demonstrate the ability to meet minimum standards involving a five hundred yard swim, sit-ups, push-ups, pull-ups, and a mile and a half run.

16. Extreme Seal Experience is a privately run company, owned and operated by retired Navy Seal, Don Shipley, which employs former Navy Seal instructors for the principal purpose of offering a realistic BUD/S training experience to candidates who have applied for, or have been accepted into, a Navy Seal training contract of enlistment.

17. As a business engaged in offering a preparatory training course for applicants desirous of becoming Navy Seals, Extreme Seal Experience has a bona fide business interest in its relationship with its customers who pay for the experience of being trained by legitimate

and verifiably authentic Navy Seal instructors.

18. Extreme Seal Experience guarantees that all of its training instructors are authentic Navy Seals who have graduated from BUD/S training, and who are entitled by virtue of their Navy service, training and qualifications to wear the Special Warfare insignia, or SEAL Trident.

19. Extreme Seal Experience enjoys an excellent business reputation in large measure due to the esteem and recognized valor of its Navy Seal instructor staff who provide authentic preparatory training for applicants seeking to become Navy Seals.

20. Defendant, Barry "Bear" Silverman operates a business known as Tactical Deterrence whose principal purpose is to offer training to customers seeking Navy Seal instruction in weapons use and security deployment.

21. Defendant, Barry "Bear" Silverman advertises and promotes himself and his business through a variety of print and electronic media as providing qualified Navy Seal instruction and training.

22. Defendant, Barry "Bear" Silverman advertises in both print and electronic media that he is a Navy Seal who completed BUD/S training, and is authorized to wear and display the Special Warfare insignia, the Seal Trident, on his person.

23. Defendant, Barry "Bear" Silverman seeks to recruit customers for his business from the same pool of prospective customers solicited by Extreme Seal Experience.

24. Defendant, Barry "Bear" Silverman has actual knowledge of the business relationship between Extreme Seal Experience and its customers seeking preparatory Seal training from authentic and verifiably legitimate Navy Seal instructors.

25. Defendant, Barry "Bear" Silverman has no beneficial or economic interest in, or control over, the business relationship that exists between Extreme Seal Experience and its customers.

**COUNT I
TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP**

26. Plaintiff realleges and incorporates all of the general allegations as if they were more fully incorporated herein and further alleges:

27. Plaintiff, Don Shipley, by and through Extreme Seal Experience, has a bona fide business relationship with its customers seeking authentic Navy Seal training and education.

28. Plaintiff, Don Shipley, by and through Extreme Seal Experience, has a recognized legal right to be free from unreasonable interference in its economic relations with its customers.

29. Defendant, Barry "Bear" Silverman had knowledge of the business relationship between Extreme Seal Experience and its customers, and had a duty not to intentionally and unjustifiably interfere in that business relationship.

30. Defendant, Barry "Bear" Silverman breached that duty by intentionally and without justification interfering in the business relationship between Extreme Seal Experience and its prospective customers by soliciting the business of those prospective customers through Defendant's fraudulent misrepresentations that he was also a former Navy Seal who possessed the background, education, and qualifications of a legitimate Navy Seal instructor.

31. As a direct and proximate result of Defendant's tortious interference in Plaintiff's business relationship, Plaintiff has suffered economic and non-economic loss in the form of lost prospective customers, emotional distress, and loss of professional reputation.

32. As a direct and proximate result of Defendant's tortious conduct, the value of Plaintiff's business has suffered, and the number of new customers has decreased as a result of prospective customers associating the quality of Plaintiff's business with Defendant's illegitimate knock-off product.

WHEREFORE, the Plaintiff, Don Shipley, demands judgment against the Defendant, Barry "Bear" Silverman, for damages, attorney fees, post-judgment interest, costs of these proceedings and further demands a jury on all issues so triable.

COUNT II
VIOLATION OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

33. Plaintiff realleges and incorporates all of the general allegations as if they were more fully incorporated herein and further alleges:

34. Defendant, Barry "Bear" Silverman, by and through his company Tactical Deterrence, had a duty pursuant to Section 501.211(2), Florida Statutes, not to engage in deceptive trade practices that were likely to deceive and mislead consumers, including the public at large, who were seeking authentic Navy Seal instruction.

35. Defendant, Barry "Bear" Silverman, by and through the commercial activity of his company, Tactical Deterrence, breached that duty by intentionally and fraudulently misleading and deceiving customers into believing they were purchasing training and education provided by authentic Navy Seal instructors.

36. As a direct and proximate result of Defendant's fraudulent and deceptive trade practices, Plaintiff has suffered economic and non-economic damages, including lost customers and income, diminishment in the value of all similar Seal training courses within the professional community, loss of professional reputation and standing within the Seal training

community, and emotional distress.

WHEREFORE, the Plaintiff, Don Shipley, demands judgment against the Defendant, Barry "Bear" Silverman, for damages, attorney fees, post-judgment interest, costs of these proceedings and further demands a jury on all issues so triable.

**COUNT III
UNAUTHORIZED PUBLICATION OF LIKENESS FOR ADVERTISING PURPOSE**

37. Plaintiff realleges and incorporates all of the general allegations as if they were more fully incorporated herein and further alleges:

38. Section 540.08(1)(b), Florida Statutes prohibits the publication of a likeness of a person for any commercial or advertising purpose without express consent of any person, firm or corporation authorized to license the commercial use of that likeness.

39. The Navy Seal Trident insignia is a unique symbol of the courage and valor of the small number of special warfare operators who have earned the right to call themselves Navy Seals.

40. The Navy Seal Trident is a likeness of the individual Navy Seal who is authorized by virtue of his unique service to display the insignia on his person.

41. Defendant, Barry "Bear" Silverman, fraudulently held himself out to be a Navy Seal, and prominently displayed the Navy Seal Trident insignia on his business cards, internet websites, business stationery and other forms of business advertisements in direct violation of Section 540.08(1), Florida Statutes.

42. Defendant, Barry "Bear" Silverman failed to obtain permission to print, display or publically use for purposes of commercial trade and advertising, the Navy Seal Trident insignia.

43. As a direct and proximate result of Defendant's unauthorized and illicit

publication and display of the Navy Seal Trident on his person, website, business cards and other advertisements for commercial purpose, Plaintiff suffered economic and non-economic damages to include: loss of professional reputation, loss of prospective customers, loss of business good will, and emotional distress.

WHEREFORE, the Plaintiff, Don Shipley, demands judgment against the Defendant, Barry "Bear" Silverman, for damages, attorney fees, post-judgment interest, costs of these proceedings and further demands a jury on all issues so triable.

**COUNT IV
DEFAMATION BY WILLIAM NEWEL BROCKBRADER**

44. Plaintiff realleges and incorporates all of the general allegations as if they were more fully incorporated herein and further alleges:

45. Defendant, William Newel Brockbrader, has a duty not to publish intentionally false and malicious statements regarding Plaintiff Don Shipley and his business, Extreme Seal Experience.

46. Defendant, William Newel Brockbrader breached that duty by publishing intentionally false and malicious statements regarding Don Shipley and his business, Extreme Seal Experience, in an online published article entitled "More Truth Revealed," in which Defendant states Plaintiff only pretends to provide actual Seal Instructor training, and refers to Plaintiff as suffering from a pathological brain disorder.

47. As a direct and proximate result of Defendant's willful and maliciously false published statements, Plaintiff has suffered harm to his personal and business reputation, been exposed to the ridicule and contempt of a substantial minority of the community seeking authentic SEAL training and education, and suffered injury to his personal, social, official and

business relationships.

WHEREFORE, the Plaintiff, Don Shipley, demands judgment against the Defendant, William Newel Brockbrader, for damages, attorney fees, post-judgment interest, costs of these proceedings and further demands a jury on all issues so triable.

**COUNT V
DEFAMATION AND LIBEL BY WOLF SPIRIT RADIO**

48. Plaintiff realleges and incorporates all of the general allegations as if they were more fully incorporated herein and further alleges:

49. Defendant, Wolf Spirit Radio, has a duty not to publish false and malicious statements on its website regarding Plaintiff, Don Shipley, and his business, Extreme Seal Experience.

50. Defendant, Wolf Spirit Radio, breached that duty by failing to confirm the accuracy of the content of the article "More Truth Revealed," and knowingly publishing an article that contained false, malicious and defamatory statements about Plaintiff Don Shipley, and his business Extreme Seal Experience, including statements that Plaintiff only pretends to provide actual Seal Instructor training, and that Plaintiff suffers from a pathological brain disorder.

51. As a direct and proximate result of Defendant's reckless and willful publication of the defamatory article "More Truth Revealed," Plaintiff has suffered harm to his personal and business reputation, been exposed to the ridicule and contempt of a substantial minority of the community seeking authentic SEAL training and education, and suffered injury to his personal, social, official and business relationships.

WHEREFORE, the Plaintiff, Don Shipley, demands judgment against the Defendant, Wolf

Spirit Radio, for damages, attorney fees, post-judgment interest, costs of these proceedings and further demands a jury on all issues so triable.



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